

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CAROL ROUGVIE, *et al.*,

Plaintiffs,

v.

ASCENA RETAIL GROUP, INC. d/b/a/
JUSTICE STORES

and

TWEEN BRANDS, INC. d/b/a
JUSTICE STORES

Defendants.

No. 2:15-cv-00724-MAK

**MOTION OF CLASS MEMBERS BARBARA COMLISH AND KATHRYN ARTLIP
FOR ATTORNEYS' FEES AND INCENTIVE AWARDS**

In accordance with Fed. R. Civ. P. 54 and this Court's order of August 12, 2016 (Dkt. 193), class members Barbara Comlish and Kathryn Artlip (collectively "Comlish") move for an award of attorneys' fees of \$78,000 and incentive awards of \$1000 each in recognition of the benefit they conferred upon the class through their objection to certain aspects of the settlement and their opposition to class counsel's earlier fee requests. As a matter of equity and Third Circuit law, successful objectors are entitled to a percentage of the common benefit created. *E.g., In re Cendant Corp. Prides Litig.*, 243 F.3d 722, 744 (3d Cir. 2001); *McDonough v. Toys "R" Us*, 80 F. Supp. 3d 626, 658-59 (E.D. Pa. 2015); *Dewey v. Volkswagen*, 909 F. Supp. 2d 373, 395 (D.N.J. 2012). Here, Comlish generated a material common class benefit by, among other things, (1) inducing the settling parties to withdraw the provision of the settlement that would revert unawarded attorneys' fees to class counsel (also known as the 'kicker') and thereafter (2) persuading the Court to reduce class counsel's fee award. Comlish therefore petitions the Court to award her attorneys' fees and incentive awards. Comlish requests that her fee and incentive award be paid from class counsel's fee fund to, as a matter of equity, avoid double charging the class for objector participation that should not have been necessary. *See, e.g., McDonough*, 80 F. Supp. 3d at 662; *In re Ikon Office Solutions*, 194 F.R.D. 166, 197 (E.D. Pa. 2000).

This motion is unopposed by the named plaintiffs. In support of the motion, Comlish relies on the memorandum attached to this motion. She also relies on the declaration of her lead counsel, Adam Schulman, also appended to this motion. Finally, she attaches a proposed form of order.

Comlish consents to disposition on the papers without oral argument, but would be glad to present oral argument if the Court believes it would be beneficial. To this end, Comlish will have counsel at the hearing on class counsel's supplemental fee request, which the Court has scheduled for December 13, 2018. *See* Dkt. 341.

Dated: November 28, 2018

Respectfully submitted,

/s/ Adam E. Schulman

Adam E. Schulman

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Attorney for Class Members Comlish and Artlip

CERTIFICATE OF SERVICE

I hereby certify that on this day I filed the foregoing with the Clerk of the Court via ECF thus effectuating service on all counsel who are registered as electronic filers in this case.

DATED: November 28, 2018

/s/ Adam E. Schulman
Adam E. Schulman